CLEAN AIR ACT ADVISORY COMMITTEE

Meeting Minutes
July 27, 1999
Washington Marriott Hotel
1221 22nd Street, N.W.
Washington, DC

Agenda

1. Opening Comments and Announcements – Bob Perciasepe, Assistant Administrator, Office of Air and Radiation (OAR)

2. Subcommittee Reports:

   a. Subcommittee on Linking Energy, Land Use, Transportation, and Air Quality – Gay MacGregor, Co-Chair (Includes a presentation by the Quantification Workgroup).
   b. Subcommittee on Economic Incentives and Regulatory Innovation – Ben Henneke, Co-Chair
   c. Subcommittee on Permits/NSR/Toxics – Lydia Wegman, Co-Chair
   d. Subcommittee on Energy, Clean Air, and Climate Change – David Donniger, OAR

3. Presentation and Discussion of the Report From the Blue Ribbon Panel on MTBE – Bob Perciasepe, AA OAR, and Daniel Greenbaum, Panel Chair

4. Presentation and Discussion of Toxics Monitoring Workshop Results – John Seitz, Director OAQPS; Fred Dimmick, OAQPS; and Larry Feldcamp, Member

5. Presentation and Discussion of Court of Appeals' Ruling on the Ozone and PM NAAQS – Bob Perciasepe, AA OAR; Alan Eckert, Associate General Council, EPA

6. Open Committee Discussion

OPENING COMMENTS

Bob Perciasepe, AA, OAR, opened the meeting by thanking the participants for coming and welcoming everyone to the Summer Clean Air Act Advisory Committee (CAAAC) Meeting. Mr. Perciasepe gave a few updates about members. Ms. Josephine Cooper, who had represented the American Forest and Paper Association, is the new president of the Alliance of Automobile Manufacturers. Robert Kaufman will be representing the American Forest and Paper Association. Dr. Anthony (Tony) Deluca will be representing the American Lung Association. Additionally, he reminded the members that the fall CAAAC Meeting is scheduled for October 12-13 (Tuesday and Wednesday) at the Georgetown Conference Center in Washington, D.C.

Introduction of the CAAAC Website

Paul Rasmussen, EPA OAR, introduced Andy Siegel, ICF Consulting, who presented and answered questions concerning the CAAAC website. (Mr. Siegel used a proxima to project an image of the website for the entire committee to see). Mr. Siegel described the website's various features and highlighted some of the site's features: committee membership list, CAAAC charter, past meeting minutes, and subcommittee meeting minutes. The website will serve as a single location where all of the Committee and Subcommittees' recent agendas, reports, and other documents can be posted for access by all committee members, as well as the general public. The site also includes a link to EPA OAR's docket location where an individual can access documents that have been removed from the CAAAC website (the docket will function as an archive). The website is currently being reviewed by the EPA webmaster in Research Triangle Park, NC and is scheduled to go live on the EPA website by the end of the week.

One committee member asked for the website's URL. Mr. Siegel responded that the URL will not be available until the website goes live. The easiest way for people to access the CAAAC website after it is posted on EPA's website, is to go to EPA OAR's website [http://www.epa.gov/oar] and click on the "Air Links" button.

General Discussion of Air Quality Topics

Bob Perciasepe briefly reviewed a number of actions and events that have occurred related to air quality since the Committee's last meeting. The Blue Ribbon Panel on oxygenated gasoline completed their study, and Daniel Greenbaum will give a presentation on the Panel's results both to the full committee and in a press conference scheduled for noon today.

On May 14, 1999, the D.C. Circuit Court published an opinion about the new clean air standards for ozone and fine particles. On May 24, 1999, the Court imposed a partial stay on the NO_X Regional Reduction Plan, meaning that states are not required to submit their plans to EPA this fall. The main issue for EPA that arose out of this ruling is what to do in the interim. This issue will be discussed in the afternoon session.

Despite the apparent confusion brought on by the Court's actions, EPA does know what it wants and needs to do in relation to air quality. Many of the major efforts underway to deal with pollution control on a broad basis are continuing. Considerable work needs to be done to achieve the one-hour ozone standard, especially since large areas of the United States are not meeting the existing standard. In an effort to achieve this, EPA has been working on mobile source emissions, specifically Tier 2 tailpipe emission standards and low sulfur gasoline. These strategies are geared not only at achieving the 8-hour or fine particle standards but also at attaining and maintaining the existing 1-hour ozone standard. The same is true for the Regional NO_X Standard for large stationary sources.

Air toxics is another area where EPA is currently focusing attention. The recently introduced urban air toxics strategy is a blueprint to begin moving the air toxics program to a risk-based program that will complement technology-based work.

This weekend, EPA released the new Air Quality Index for all criteria air pollutants (including ozone and fine particles). This Index is not a standard, but it is based on new science and includes health warnings that are adjusted to include sensitive populations. EPA continues to work on the Economic Incentives Program (EIP) to help achieve reductions and manage them in

an economically efficient way. Hopefully, EPA will be able to put out a draft of the EIP for public review to be completed by the end of the year.

Coordination of visibility, NO_X, and future and existing SIP planning is essential. This week, EPA is sending a letter to states outlining regional approaches for visibility planning issues. Hopefully, EPA will be able to provide seed money to regions to begin initiatives. Because air quality is not just a state problem and states need to work together and more robustly than in the past, interstate and federal coordination is necessary.

Although the work EPA is currently involved in is somewhat linked to the new standards, other standards already exist. EPA must continue to do work to achieve and maintain these current standards, and cannot wait for court decisions to be finalized. Mr. Perciasepe continued the introduction by discussing, in greater detail, some of the specific programs being pursued by EPA.

Tier 2 and Low Sulfur Rule

This rule, proposed in May of this year, is an important part of a national air quality strategy. EPA is and has been working closely with the automobile and oil refining industries to continue to make mobile sources part of the solution for air quality problems. If mobile and tailpipe standards are not addressed, any air quality gains made to date could be lost. To achieve reductions, fuels, engine technology, and after treatment designs must be optimized to achieve the "biggest bang for the buck." At this time, EPA has held public hearings and met with the Western Governors to talk about these issues, but more work still needs to be done. Long term mobile source strategy should deliver lower emissions for 20-30 years into the future.

Urban Air Toxics Strategy

The Urban Air Toxics Strategy, released in early July of this year, listed 33 pollutants and identified 29 area sources that emit these pollutants. EPA needs to develop a coordinated strategy to identify the optimum way to reduce these pollutants' risks to acceptable levels. The goal of the Strategy, as delivered by Congress, is to reduce the risk of cancer associated with these air toxics by 75 percent and also substantially reduce the non-cancer health risks.

Economic Incentives Program (EIP) Guidance

More innovation and creative thought is needed to achieve the air quality standards, and the EIP is intended to create the proper environment for economic reductions. EPA has undertaken a comprehensive update of the 1994 Guidance. The new Guidance will include a better understanding of how market mechanisms work and will incorporate lessons learned from previous programs. The goal is to have the EIP completed by the end of the calendar year.

Regional Haze Rule

The Regional Haze Rule was published in the *Federal Register* on July 1, 1999. EPA recognizes that if they are going to deal with visibility over a long period of time, the Rule must achieve the following:

- Capitalize on work going on at the state level (e.g., Western Regional Air Partnership);
- Build on work already being done on criteria pollutants; and

- Make progress on reducing the impacts on Class I areas of the US.

The horizon has to be kept within reach of an achievable goal while also bringing Class I areas back to natural background visibility levels. EPA believes that it has constructed a rule that meets these goals and it would be unfortunate if, due to litigation, the process would have to start all over again. EPA has tried to develop a proposed and final haze rule that accommodates the interests of all affected parties. Because the associated planning requirements will not be enforced until the middle of the next decade, EPA does not see any major conflicts from these affected parties.

Conclusion

The current litigation does not mean that EPA should not move forward with their on-going efforts. Rather, EPA needs to progress more rapidly to deal with the litigation while continuing to build the foundations needed to meet the existing standards. The 1-hour standard has been revoked in approximately 3,000 counties. Some of these communities have never exceeded the standard and are not expected to violate it in the future, whereas others violated the standard at one point, but have had 3-5 years of good attainment. Those communities that have yet to achieve the 1-hour standard are still subject to its requirements. EPA wants all of these areas to begin working towards achieving the 8-hour standard. The regulatory policy issue is should the agency reinstate the 1-hour standard because the 8-hour standard is in litigation? No decision has been made at this time. Nevertheless, EPA continues to move forward with air quality planning issues.

SUMMARIES OF SUBCOMMITTEE WORK

Linking Energy, Land Use, Transportation and Air Quality – Gay MacGregor

Ms. MacGregor called attention to several new products that have either come through the Subcommittee or with which the Subcommittee has been involved. The Subcommittee developed an outreach CD ROM and a guide to inform youth about transportation alternatives. These tools are geared at helping youths make transportation decisions that will help to reduce vehicle miles traveled (VMT). EPA sponsored three pilots of the program (Kansas City, KS; Tampa, FL; and Boston, MA) and has developed a guide for other municipalities that describes how to replicate the youth involvement activities. Additionally, the Subcommittee has used the Section 105 Grant Program to fund a number of transportation related programs. Over the past 3 years, funding for various transportation outreach programs has been allocated to 96 jurisdictions across the United States. Descriptions of pilot programs and related documents can be found on the EPA website under OAR, OMS, transportation air quality center. Finally, the Subcommittee tries to bring an expert in a field to speak at the quarterly meetings. Last night's guest speaker talked about urban sprawl and mobility.

Ms. MacGregor briefly described the newly developed Quantification Product. The voluntary measures policy was issued 18 months ago and current quantification models and tools were difficult and costly to use. The quantification workgroup, with the help of experts in the quantification field, developed a usable tool for States to quantify voluntary measures. The tool

gives states a mechanism by which to estimate the benefits of various voluntary measures for local and regional programs using the methodologies embedded in the tool. The tool, which is still unnamed, should be ready for distribution in approximately one month. Ms. MacGregor introduced John Hall, EPA, who demonstrated and explained the spreadsheet in more detail.

John Hall described the mechanics for using the tool, which is based on an Excel spreadsheet, and identified some of the different fields available. The spreadsheet-based tool was designed to simplify the process and reduce the amount of time required to evaluate transportation control measures. The high costs associated with modeling, especially for small projects, have been a major issue for states. This tool will provide states with a single, diverse, low-cost, user-friendly tool to model various transportation programs nationwide. The tool can be used for either a site-specific or a regional analysis to model:

- Financial incentives;
- Telecommuting;
- Employer support programs (carpooling, vanpooling);
- Commuter choice; and
- Others.

The tool color-codes the data requirements (e.g., yellow for optional, green for mandatory, and red for descriptions), and calculates the impacts of a particular program, including the travel impacts, VMT and trip reductions, and the resulting emissions (in tons per day).

Ben Henneke, Clean Air Action Corporation, complimented the workgroup for work they have done, especially given the difficulties and uncertainties associated with addressing these types of activities. Mr. Henneke asked if the tool is based on SIP modeling for an average summer day or on an annualized basis. Mr. Hall replied that the tool uses mobile inputs to generate emissions reductions, similar to what was done on the complex model for fuels. Multiple scenarios are pre-loaded into the tool, and the user picks the basic characteristics they want to use for the modeling.

Economic Incentives and Regulator Innovation - Ben Henneke

The Subcommittee has been working with EPA on the EIP Guidance Document, which the Agency is planning on distributing for public comment within one or two weeks. (The Agency is currently making technical revisions to the document.) The final Guidance Document should be issued by the end of the calendar year. The Guidance Document is intended for use by state regulatory agencies to assist them in designing individual EIPs; therefore, the document targets those people who would implement these new programs - air directors, commissioners, etc., not industry or the general public. The major issue that is currently being addressed is related to environmental justice (EJ). What is the EJ context in which a program should operate to encourage people to make reductions?

Mr. Henneke reported that the Subcommittee discussed EJ and liability issues associated with trading and economic incentive programs at their meeting the previous day. The purpose of EIP is to improve circumstance for all individuals; however, a number of associated EJ issues have been identified. The Subcommittee was trying to limit the potential negative impacts of trading programs on communities surrounding older manufacturing facilities while still providing communities with the flexibility to choose the lowest cost sites for emissions reductions. The Subcommittee suggested resolving this issue by:

- Defining areas of concern (potential EJ communities) up front and creating ways for these areas to make reductions; and
- Ensuring areas of concern are properly identified in the EIP.

In order for the EIP to work, individuals must be reassured that communities that make good faith efforts to reduce emissions are not faced with additional liabilities. The Subcommittee suggested ensuring that "new" liabilities are not imposed on individuals who make emission reductions in good faith and that any actions that are done in bad faith are treated as such.

Paul Rasmussen briefly discussed the statutory authority issues associated with the Clean Air Excellence Awards Program. He stated that at the beginning of the development of the Awards Program, he informally checked with EPA's Office of General Council (OGC) to make sure the CAAAC and its Subcommittees could sponsor an awards program. At the time he was advised that there were no legal barriers to the proposal; since that time, however, the General Accounting Office (GAO) issued and opinion that if EPA's programs do no have the statutory authority to undertake awards programs, then its GAO's opinion the Agency should not pursue such a program. The OGC is currently writing an opinion, expected to be completed in October, which would provide a blanket authority allowing EPA and the CAAAC to proceed with the Program. All activity related to the Awards Program will be suspended until this opinion is published. The Committee, however, is still planning to issue awards for 1999 with judging in the winter and awarding in the spring. The issue concerning the Program's statutory authority has only delayed the outreach process.

Subcommittee on Permits/NSR/Toxics – Lydia Wegman

Ms. Lydia Wegman reported that the subcommittee met last night and had a report on mobile source air toxics. Jason Grumet, Northeast States for Coordinated Air Use Management (NESCAUM), presented a report on the cumulate exposure project, renamed the National Air Toxics Assessment (NATA), that NESCAUM is conducting with EPA's Office of Mobile Sources (OMS). The report stated that there was agreement between modeling conducted on data from the CEP for census tracts and actual ambient air monitoring data. The report indicates that mobile sources contribute a fairly large percentage of air toxics. Mr. Grumet added that EPA has set up a subcommittee on mobile source air toxics and individuals should feel free to contact him or Jean Marie Revelt if they are interested in participating.

Jean Marie Revelt, EPA/OMS, gave a report on EPA's mobile source air toxics work. Under Section 202 (l), EPA/OMS is required to determine reasonable requirements to control hazardous air pollutants from mobile sources. At this time, EPA has a project underway to examine these issues. They are aiming to publish a proposed rule in the spring of 2000 and the final rule at the end of next year addressing six candidate air toxics (including benzene, formaldehyde, and diesel particulate matter). EPA has initiated discussions with stakeholders, provided outreach, and conducted an emissions and exposure assessment. The Agency is interested in continuing to work with stakeholders in regards to the regulations and other proposals. If any one is interested in these efforts, they should talk to Margo Oge or Jean Marie Revelt.

Ms. Wegman asked John Seitz, EPA, to provide an update on the New Source Review (NSR) Reform process at last night's Subcommittee meeting. Mr. Seitz briefly explained that EPA held a meeting last February with stakeholders where EPA asked stakeholders several questions regarding plantwide applicability limits, netting, and other issues, and provide recommendations on specific issues. In coordination with STAPPA/ALAPCO, the environmental community, and others, the stakeholders presented results of this dialogue to the Agency this past spring. In

August, EPA will hold another series of meetings with the stakeholder groups to clarify specific issues. Bill O'Sullivan and John Paul, both representing STAPPA/ALAPCO will hold meetings and present the stakeholders proposals. EPA plans have a final product by the end of the year.

Mr. Don Clay, Koch Industries, Inc., asked what the end product is going to look like and Mr. Seitz replied that there is no set format at this time. The end product will probably be determined in meetings being held over the next month and he should have a much better idea in the fall. The final product will definitely include a list of NSR Reform elements.

Energy, Clean Air, and Climate Change – David Doniger

David Doniger, EPA/OAR, explained that the Climate Change subcommittee had a number of presentations pertaining to the economics of energy efficiency at the subcommittee meeting held on July 26th.

Marilyn Brown from the Department of Energy's Oakridge National Laboratory (DOE/ORNL) presented a status report on and preliminary results of a DOE follow-up study to the 5 Lab Study – an estimate of the reductions of CO_2 and other pollutants that could result from penetration of efficiency, end use, and renewable technologies. The old report did not describe the policies that would be needed to implement these technologies at the rates and depths that were examined under the initial scenarios. However, the new report examines policies, including regulatory innovations and tax credit proposals, that would be effective in bringing these technologies forward. The Study found that a very large percentage of the work that needs to be done to reach the goals could be closed with technologies that would result in a net benefit to the economy.

Based on his work with CFC phase-out and Energy Star, Steve DeCanio, University of California at Santa Barbara, gave a presentation at the subcommittee how a firm's structure and decision-making strategies can influence a firm's willingness to implement energy efficiency practices. His presentation focused on reconciling environmental consequences of bottom up studies and top down models to build different theories of firm structures into economic models.

Jeff Seabright, Executive Director of the White House Climate Change Task Force, gave a presentation on the Task Force's upcoming months.

Mr. Doniger reported on the status of climate change negotiations. Recently, the negotiations have focused on what it takes to make the broad outlines of the Kyoto Protocol, so countries can decide whether to ratify and implement the Protocol. The US will not implement the Kyoto Protocol until Congress ratifies the treaty. Before the Protocol is put to the Senate, the US needs to determine how international emissions trading, related flexibility issues, and compliance measures will work, issues they hope to resolve by late 2000 or early 2001.

Congress wants to ensure that the Kyoto Protocol is ratified before it is implemented in the US. An amendment (Neulanberg Amendment) was placed in the appropriations bill which prohibits EPA from proposing or issuing language that would implement Kyoto before a ratification decision. EPA has been able to comply with this without any interference with current programs. Current efforts to strengthen and extend the authority of this amendment could lead to problems with current voluntary programs, other climate change programs, and enforcement of the CAA.

Finally, the Subcommittee was updated on the progress of the workgroup formed to give advice on output emission limitations in the context of the NO_X SIP call. At the winter meeting, the workgroup is expected to present a report to both the Subcommittee and the CAAAC on the options for and impacts from utilizing alternative approaches to operate of electric power plants.

The Climate Change Subcommittee will not meet at the fall CAAAC meeting; however they will meet at the winter meeting and will conduct a conference call between now and then to brief members on the next round of climate change talks.

Budget Markup by House Appropriations Committee – Bob Perciasepe

Mr. Perciasepe gave a brief summary of the status of the budget markup by the House Appropriations Committee. The final budget is not complete and it is unclear what level of funding will be allocated to EPA, however, Mr. Perciasepe is fairly confident that EPA will receive a number of earmarks on its budget. Over 50 percent of EPA's budget is allocated to the Clean Water and Drinking Water Revolving Fund, Superfund, and grants to states. Monies allocated to these programs cannot be used for anything else. At this time, Mr. Perciasepe stated that the House has not added any funds to the climate budget, the Montreal Protocol budget received no funding, and the Clean Air Partnership Fund has been allocated $40 million.

PRESENTATION AND DISCUSSION OF REPORT FROM THE BLUE RIBBON PANEL ON MTBE

After a short break, Mr. Perciasepe briefly introduced the report from the Blue Ribbon Panel on MTBE. He stated that gasoline is a toxic and potent mixture of chemicals and noted that the issues associated with reformulated and clean burning gasoline and the role gasoline plays in air quality have been around for a long time. Since there are over 200 million light duty vehicles in the US, and the US uses and stores over 100 billion gallons of gasoline per year, the leaking of gasoline into the environment is also an issue. EPA needs to develop an optimal approach for preventing gasoline leaks while also protecting air quality benefits realized from reformulated gasoline. In response to concerns about MTBE and other potential hazardous oxygenates, Carol Browner, EPA's Administrator, asked a panel of experts from government, industry, academia, public health, state government, and other organizations to provide EPA with advice on this issue. Mr. Daniel Greenbaum, Health Effects Institute, chaired the Blue Ribbon Panel that consisted of 13 public and private leaders and nine non-voting officials with backgrounds in air, water, energy, fuels, health, agriculture, and the environment. The Blue Ribbon Panel examined issues associated with oxygenates in gasoline.

Mr. Greenbaum made a presentation entitled "Achieving Clean Air and Clean Water," which described the Blue Ribbon Panel, its processes, and recommendations. The Panel's goals were to understand the air quality benefits, water quality challenges, health effects, and implications for fuel supply and price associated with oxygenates in gasoline. Specifically, the Panel was charged with identifying and recommending alternatives to MTBE that maintain air quality benefits while minimizing and/or preventing water contamination, health risks, and disruptions to fuel supply and price. The Panel was charged with addressing the following issues:

- How to make reformulated gasoline an air quality success;
- How oxygenates play a part in that success; and
- How to address growing questions about contaminated water.

Water Effects

MTBE moves faster and degrades less in groundwater than other gas components. Additionally, reports of MTBE contamination in public and private wells, as well as surface water, are increasing. This problem is compounded by the fact that drinking water regulations and guidelines for MTBE differ from state to state. For example, the level to take action in Maryland is 10 ppb and 70 ppb in Connecticut. Additionally, MTBE is much more likely to be found in high use (RFG/Oxyfuel) areas when compared to the use of other oxygenates like BTEX (21 percent compared to 4 percent).

Health Effects

In general, MTBE is less toxic than other gasoline constituents. Although studies have shown MTBE to be an animal carcinogen, it is unclear if the substance is a human carcinogen. The majority of the concerns associated with MTBE in drinking water are related to the taste, odor, and lost use of limited water resources. To date, there have only been rare cases of levels of MTBE detected well above EPA and state standards and guidelines.

Fuel Supply

MTBE is the primary oxygenate used in reformulated gasoline (RFG). Ethanol is used in some areas, and its use could increase with time. Alkylates and aromatics are non-oxygenate alternatives to MTBE. The key challenge is to provide adequate lead-time for refiner transition.

Findings

The Panel held six meetings over six months, the first three of which were dedicated to learning about the current situation. The second three meetings were dedicated to the analysis and evaluation of the options. The Panel prepared the executive summary, recommendations, background summaries, and a full report.

The Panel found that RFG results in substantial benefits to air quality (e.g., 30 percent reduction in air toxics). However, MTBE was detected in 5 to 10 percent of the wells in areas where RFG and Oxyfuel were used. MTBE was generally detected at low levels (less than 5 ppb) with only approximately 1 percent of the wells exhibiting levels above 20 ppb. Although higher MTBE levels (greater than 100 ppb), which can lead to health concerns, have occurred, these instances are rare.

The Panel determined that there are three major sources of MTBE in water:

- Leaking underground storage tanks;
- Watercraft with older motors; and
- Spills and other releases.

Improved water protection is necessary, but may not be sufficient enough to prevent possible future contamination.

Recommendations

The Panel recommended that EPA and the states work together to enhance current water protection programs by conducting the following activities:

- Improving and strengthening the Underground Storage Tank program;
- Enhancing the implementation of the Safe Drinking Water Act;
- Protecting private wells;
- Expanding public education on the handling of gasoline; and
- Improving the funding and technology for treating and remediating contaminated water supplies.

Secondly, the Panel recommended that the use of MTBE be substantially reduced or eliminated by regulating fuel additives that pose a threat to water. Some work on this transition, including research on the air and water effects of other fuel components (ethanol, aromatics, and alkylates) likely to take MTBE's place, could begin immediately. However, a full transition away from MTBE could take up to four years and is contingent upon the Panel's third recommendation pertaining to the removal of the current two percent requirement for oxygenates in RFG. This would enable refiners to blend clean fuels as quickly and cost-effectively as possible while MTBE is being reduced.

Thirdly, the Panel recommended that EPA seek mechanisms to maintain air quality. Current RFG results in a 30 percent reduction in air toxics, exceeding the required 22 percent reduction under Phase II. While oxygenates have played a role in these reductions, there is disagreement about their precise contribution. EPA should seek better performance standards, particularly for air toxics, to maintain benefits.

Finally, in order to learn from the experience, the Panel recommended against introducing new fuel additives or other products into broad use without extensive testing of their potential impacts on air, soil, and water. Instead, they recommended improving efforts to monitor air quality and provide surveillance of public health.

In general, the Panel broadly agreed on most of the recommendations, however two Panelists expressed concerns about the recommendations. The MTBE industry representative thought the enhanced water protection recommended by the Panel should be adequate to protect water supplies. The ethanol industry representative was concerned that the Panel's recommendation to lift the oxygen requirement did not adequately reflect the benefits of having oxygenates in the fuel. Overall, the panel concluded that strong benefits have been realized from RFG; however, elimination of MTBE is necessary to prevent water contamination from becoming more serious in the future. The Panel believes that its recommendations will ensure that water supplies are protected while the air quality benefits associated with RFG are maintained.

Questions/Comments

Bill Becker, State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO), asked to what extent the panel examined the potential toxic effects of substitutes to MTBE given the recommendation to reduce MTBE. Additionally, he asked how easy it will be for states to act on their own if they don't agree with what the Federal government decides as a result of the Panel's recommendations. Mr.

Greenbaum responded that the panel looked at questions related to the potential toxicity of ethanol, alkylates, aromatics and the potential emissions from ethanol, acid aldehydes, and atmospheric by-products, however, they did not make a full-fledged health assessment of these additives. In relation to state flexibility, Mr. Greenbaum stated that the Panel identified some states who thought they already have the authority to act on their own, and others who did not think they currently had the authority, but would like to have it. The Panel recommended clarifying both federal and state authority.

Mr. Perciasepe added to Mr. Greenbaum's comments that there needs to be some level of consistency in the quality of gasoline delivered to the sophisticated automobiles. He also noted that some states will need to take more specific steps than others. Thus, the Panel's recommendations were focused on Congress granting EPA more authority to deal with these issues, while allowing states to go forward with some particular aspects of the program, if necessary. Mr. Perciasepe stated that it is unclear how this will actually happen, however, EPA will attempt to take a consistent, national approach to the subject.

Mr. Grumet asked how the low potency of MTBE is going to be balanced with its high exposure and stressed that we should not transition back to using known carcinogens in gasoline as substitutes for MTBE. He is excited about the Panel's recommendation to lift the mandate and clarify the authority of states and federal government. MTBE's impact on the environment is clear however, the authority of states and the federal government to regulate its environmental effects is murky. We need to build upon the balance that exists under Section 211 of the CAA and ensure that the environmental effects, in addition to health effects, provide justification for state regulations.

Mr. Clay stated that one the key challenges with the fuel supply will be to prove adequate lead-time for refiner transition with all of the changes occurring (e.g., low sulfur). Is there any sense of how much time would be required? Mr. Greenbaum replied that the time frame depends on the level of the reduction. The process could take up to four years, with fewer years for states reducing but not eliminating MTBE. Mr. Perciasepe added that transition time is important and necessary, especially to blunt any rapid change in gasoline formulations that could lead to increases in gasoline prices at the pump.

Ms. Ursula Trueman, Utah Department of Environmental Quality, asked if the study affects the use of the wintertime oxygenates for the CO_2 programs by states. Mr. Greenbaum responded that the document includes recommendations that addressed wintertime oxygenate programs. For the most part, the oxygenate being used in these programs is ethanol, not MTBE, and because it is a wintertime program, some of the issues normally surrounding oxygenates are not applicable. The Panel thought these programs should continue as long as they provide potential air quality and maintenance benefits.

Ms. Miriam Lev-on, ARCO, asked about the likelihood of success of removing the current two percent requirement for oxygenates from the CAA and if EPA considered administrative action to assist states that have already taken steps to phase out MTBE. Mr. Greenbaum replied that the Panel did mention other mechanisms, especially for initial reductions, that could occur with certain administrative actions. He thought that any change would require Congressional action and that administrative support from EPA would not be sufficient.

Mr. Perciasepe stated that, in light of the Panel's recommendations, EPA is committed to working with Congress on developing targeted legislation that would allow the flexibility necessary to achieve reductions in MTBE. However, EPA is interested in maintaining role of

renewable fuels in nation's gasoline. Once the report is officially released, EPA will make a statement that the Agency should explore whatever flexibility it has under the current law. EPA is already working with California and members of the California delegation to identify administrative measures that could be taken to provide increased flexibility.

Mr. Alex Johnson, Corning, Inc., asked where the process goes from here. He noted that some of the Panel's recommendations are open ended - asking who, how, and how much. Secondly, the benefits received by toxic reductions exceeded what were anticipated. What is EPA going to do to continue to explore and maintain these benefits? Finally, recreational watercraft have been identified as major sources of MTBE in surface waters - what can be done to protect the nation's water from these emissions? What other additives, other than MTBE, might be contaminating surface water from these same sources? Are there other gasoline additives that could have similar effects as MTBE and should these other additives be examined in greater detail?

Mr. Greenbaum stated that the panel looked at other likely additives, including other ethers (ETBE, DIPE) that behave similarly in water, but not identically to MTBE. The panel recommends that additional studies be conducted before any of these additives are used as widespread alternatives to MTBE. Rules adopted in 1994 require the testing of fuel additives unless they are grandfathered under Section 211, and the Panel reiterated this statement. In relation to groundwater behavior, the majority of gasoline's components are not easily dissolved and are highly biodegradable, therefore, they are less likely to be a groundwater concern.

Margo Oge stated that EPA has an extensive, ongoing, collaborative program with a number of the fuel and fuel additive companies under Section 211. Over the next three to four years, EPA will provide extensive health effects testing for all oxygenate and fuel additives including ethanol, ETBE, etc. As indicated in the presentation, EPA's current authority only allows EPA to address inhalation health effects testing and not the water issues. Legislative authority would be needed to change this issue.

The committee then took a break for lunch.

TOXICS MONITORING WORKSHOP RESULTS

Rob Brenner, EPA/OAR explained that the next agenda item was an extension of the air toxics monitoring discussion held at the CAAAC meeting in Portland, Oregon and a workshop held in North Carolina. He noted that the workshop was oversubscribed and included a good set of discussions. John Seitz added that one of the follow-on topics suggested by Larry Feldcamp was the coordination of the mechanics and direction of air toxics monitoring and the urban air toxics strategy. An air toxics committee will continue to work on the interface of toxics monitoring, how it relates to urban toxics, and how to integrate ambient and human exposure monitoring data into an air toxics monitoring program.

Presentation on Air Toxics Monitoring Workshop – Fred Dimmick

Fred Dimmick, EPA, gave a presentation on the recent Air Toxics Monitoring Workshop, held on June 2-3, 1999 in Research Triangle Park, NC.

The following groups organized the workshop:

- EPA;

- Mickey Leland National Urban Air Toxics Research Center;
- Radian Corporation;
- Health Effects Institute;
- American Petroleum Institute; and
- Chemical Manufactures Association.

Approximately 125 individuals participated in the workshop, representing a variety of stakeholders including, EPA, industry, trade associations, private firms, academic institutions, and local governments.

The Workshop's main purpose was to start a dialogue about ambient air toxics monitoring. In an effort to better understand needs for and uses of monitoring data from the perspective of various stakeholders, the objectives of air toxics monitoring programs were discussed. To develop a common understanding of network design issues, participants gave presentations on new and innovative monitoring opportunities. These presentations triggered discussion of these issues. A resulting next step of the Workshop was the establishment of an ongoing workgroup to address these issues and maintain communication with stakeholders.

The discussion on ambient air toxics monitoring is driven by the Urban Air Toxics Strategy. EPA discussed its overall strategy for air toxics monitoring, gave a brief overview of the current programs that address toxics monitoring, and presented its overall vision for these programs. This provided background information for discussions on the draft Integrated Urban Air Toxics Strategy. The Agency also discussed the role air toxics monitoring plays in the National Air Toxics Assessment (NATA) to evaluate the effectiveness of monitoring and a description of the National Air Toxics Inventory (NATI). EPA is using this Inventory to pull together a comprehensive database of the hazardous air emissions across the country (mobile, area, stationary source), and is using the monitoring information to evaluate the effectiveness of various toxics models.

Presentations were made on State (Texas, California, New York, New Jersey, and Vermont) and public/private (Houston regional) monitoring networks. Technical issues, suggestions for future development, and the results to-date were discussed. Other "academic" discussions on personal exposure monitoring and how it relates to ambient monitoring, and the possibility for creating public/private research partnerships for toxics monitoring occurred.

There was a detailed discussion about the use of the ambient monitoring network to perform an exposure assessment. The Workshop participants stressed that EPA needs to <u>focus</u> the goals of the monitoring network rather than create a long, disjointed list of goals. These goals should focus around EPA's stated use of ambient air toxics monitoring data, including the following:

- Establishing a baseline for air toxics characteristics;
- Tracking trends to assess progress and effectiveness of emission reductions;
- Evaluating exposure and environmental concerns; and
- Assessing models and corroborating toxics emissions inventories.

Other participants thought EPA should maintain a focus on exposure assessment. Additionally, there was a loud, minority viewpoint that there was not going to be enough monitoring systems put in place to collect the data necessary to conduct an exposure assessment. These individuals suggested that monitoring be a part of an overall program that looks at monitoring results rather than a stand-alone program. Others stated that personal exposure should be linked to

monitoring – state experience should be reviewed for lessons learned. They stressed the need to learn from past monitoring efforts.

A large number of issues were raised at the Workshop. In response to these discussions, EPA extended the comment period on the monitoring concept paper for the Workshop participants and created a follow-up discussion group. A suggestion was made to develop a website to help keep all interested parties informed of developments and to continue EPA's commitment to exchange ideas and solicit the involvement of a broad range of stakeholders. Additionally, participants identified a variety of monitoring and non-monitoring issues that could be explored in future workshops.

Presentation on the Concept Paper

Larry Feldcamp, Baker and Botts, LLP, encouraged public partnership to deal with the monitoring network as well as the Leland Center. Mr. Feldcamp questioned whether Title V fees can be used for monitoring, including air toxics monitoring. He suggested that those who contribute to an air toxics monitoring network should can get credit or a reduction in their fees if their activities are tied into what a state is doing and asked if EPA would allow such an interpretation of the Title V structure.

Mr. Seitz said that EPA would need to investigate this idea further. He noted that the State of Texas might have had agreement in their fee structure that excess fees could be used this way, however, ambient monitoring is not generally covered with the Title V fees. To the extent a state adopts a fee structure that would allow for the coverage of the Title V program, then any excess fees could be used for monitoring. In light of the litigation history associated with Title V, EPA would have to take a closer look at the Title V fee structure to make an accurate determination.

Mr. Feldcamp continued by presenting recommendations from the regulated community on the concept paper. He reported that due to the limited public and private resources, EPA needs to be more focused on what they are trying to achieve with monitoring. A number of issues were raised that pertain to urban air toxic strategies, such as trend issues, validating models, dealing with hot spots, and environmental justice issues. Future drafts of the concept paper need to include targeted goals and an analysis of how best to achieve these goals. Additionally, the resulting plan should be reviewed by an independent third party panel of experts under the direction of the National Academy of Science (NAS) to ensure that the methodologies are scientifically valid.

Paul Locke, The Pew Environmental Health Commission, asked if EPA is considering the use of biological monitoring in taking fluid samples. Mr. Feldcamp replied that the Leland Center is currently using badges. In the long term, they might conduct some biological monitoring, but none is going on at this time. Mr. Seitz added that EPA has talked with the Office of Research and Development, which generally performs biological monitoring activities, and they are considering exploring this option.

David Hawkins, Natural Resources Defense Council (NRDC), suggested that EPA develop a database that provides all the information on toxics monitoring and make it accessible to the general public. The NRDC was recently looking into this issue and could not find an integrated database of monitors, monitoring data, years of record, operating agency, and covered pollutants. The EPA AIRS database is usable after overcoming a steep learning curve, however, it only includes information states decide to submit and is therefore not complete. Also, it would

be helpful if the Agency encouraged states to develop websites and utilized these and other forms of communication to provide information to the public.

Mr. Seitz replied that David Mobley made a presentation to the CAAAC at another meeting on the available information related to ambient air data on toxics. He acknowledged that monitors come and go, so it is difficult to build a trend line. EPA is trying to determine how current information can be integrated into a baseline data set.

Bill Becker stated STAPPA/ALAPCO's Board of Directors recently met and discussed the number of state and local monitors collecting toxics information. He indicated that the organization is not sure if this information is being factored into the air toxics strategy, so the toxics data may be underused. This data should be taken into consideration. Mr. Becker continued by stating that STAPPA/ALAPCO appreciates EPA's efforts in putting ideas on paper and conducting this Workshop. He wants to make sure that there is a specific objective and consistent approach for receiving and using air toxics monitoring data. He sees the need to use the monitoring data to validate models – CEP and ASPEN. John Seitz added that EPA is currently working with STAPPA/ALAPCO to look at the entire monitoring network and decide how it can be used more efficiently. The current PAMs network collects data for Title I, but it could also be used for Title III. He added that this information will ultimately feed into the committee's work.

Alex Johnson concurred with Mr. Hawkin's comments related to the necessity of public access to the data. He stated that it is frustrating to have to go to different places to get various bits of information related to urban air toxics data and state data. Public use and availability of results must be thought of up front. He asked if any of the Workshop participants represented environmental or public interest groups. Fred Dimmick responded that he is not certain if these individuals attended the Workshop.

Mr. Johnson added that there is a need to improve and to build upon the data that has been collected over the past 20 years establishing trends for PCBs, mercury, and other pollutants. He would like to see more integration of other networks in addition to ambient air toxics and he suggested that EPA provide more outreach to community groups, especially in urban areas, who would like to participate in these issues. Rob Brenner stated that EPA has had a good deal of contact with national environmental groups on these issues, but EPA recognizes that they are lacking in their coordination with community groups and requested assistance in these efforts.

Steve Gerritson, Washington Sierra Club, stated that doing more monitoring is a great start; however, there is a trade-off between reducing the cost of monitoring and the quality of the data. Some monitors give very coarse information, and it is important that this is not substituted "good" information. EPA needs to continue to expand the source receptor analytical modeling. Finally, he echoed the comments made by Mr. Becker in his hope that this information is used to improve and expand dispersion models.

Mr. Seitz stated that EPA is trying to figure out what the "world looks like:" What state data exists? What do the different information sources tell us? How can we build an efficient strategy and network around this information? How do you determine best way to utilize the information in the most efficient and effective manner? These issues are exactly what EPA needs to address in order to move forward on this issue.

Ms. Lev-On brought up the importance of data quality. As data from existing networks is integrated, it must be comparable and representative across localities. As part of any planning,

sound scientific minds must get together to think about data quality objectives and how to integrate existing data. Additionally, the suggestion of a third-party review should be considered to ensure scientific robustness of the emerging plan.

Mr. Hawkins pointed out that the recommendations from the Workshop would have been different had there been more participation from environmental groups. Recommendations would have been to do more, faster. Implementing a third-party review, particularly from the NAS, would probably lead to long delays and is not really necessary at this time.

PRESENTATION AND DISCUSSION OF THE COURT OF APPEALS RULING ON OZONE AND PM NAAQS

Mr. Perciasepe stated that EPA does not agree with the Court of Appeals ruling and has asked the Department of Justice (DOJ) to prepare a request for a rehearing. He stated that what the Court did not do, as well as what it did do, is important. In general, the Court did not seek to dismiss or overturn some of the science involved in the rulemaking and criteria development. Instead, they disagreed with EPA's interpretation of the data. EPA is continuing to explore the science on the standards and to get ready for the next round of criteria evaluations.

EPA is working on developing and maintaining continuity in the national air quality management program. The 1-hour standard was not revoked in 42 areas of the US, and excedances still occur. Additionally, 12 areas where the 1-hour standard was revoked have had excedances this year. Consequently, EPA is not going to abandon work on the 1-hour standard while the court cases are underway.

Regional transport of NO_X is an underpinning of some of these problems. The NO_X SIP call was developed to reduce NO_X emissions. Although the NO_X SIP call has been stayed, pending hearing of the merits, EPA is going to continue to work with states on the need for these reductions and hopes to be able to settle out of court. Meanwhile EPA continues to use other authorities to achieve NO_X reductions, such as the Section 126 petitions. EPA recently received three more petitions.

If EPA stopped working on attaining the Tier 2 tailpipe standards and the low sulfur fuel programs, the diversity in vehicle types, increases in the number of vehicles, and increases in VMT would result in increases in emissions. In order to attain and maintain the NAAQS, EPA continues to work with the automobile and oil refining industries to develop next steps for a new rulemaking.

Work on both the NO_X SIP call and the Tier 2 tailpipe standards originated before the 8-hour standard was adopted. These programs are geared at creating the foundation for the 1-hour standard and acting as the starting point for achieving the 8-hour standard. EPA has the authority to designate areas as attainment or non-attainment for the 8-hour standard before the statutory deadline of July 2000 and has begun this designation process.

The designation of attainment and non-attainment areas for $PM_{2.5}$ is far in the future, and EPA expects the court case to be resolved before these designations need to be made. In the meantime, EPA will continue to deploy a monitoring system necessary for state programs and the designation of attainment and non-attainment areas. EPA will also continue to work on the development of $PM_{2.5}$ emission factors and to fund research for next round of criteria document development.

Mr. Perciasepe emphasized that EPA's work is based not only on the 8-hour standard, but also the 1-hour standard.

Alan Eckert, EPA's Associate General Counsel, made three major points concerning the Court of Appeal's decision:

- EPA strongly disagrees with three of the four principle conclusions of the Court of Appeals in its May 14th decision and is determined to take the necessary measure to get these overturned.
- Standards are still in effect, although EPA is taking the May 14th decision into account when making decisions on ozone and PM.
- EPA has a number of ongoing matters on which they will continue to proceed because EPA believes they are justified with or without the 8-hour and fine particle standards.

EPA has filed a petition for a rehearing, taking issue with the following three points:

- The Court's finding that EPA failed to articulate an intelligible principle leading to the level chosen for the ozone and particulate standards.
- The Court erred in stating that Subpart 2 of Title I was the exclusive vehicle for implementing any ozone standard and that although EPA has the power to revise the ozone standard, if it was ever revised, EPA does not have the power to implement it. This statement shows the incoherence of the judgement.
- EPA does not believe that Congress meant for smog to be a pollution control technique to protect the public from ultraviolet rays.

The Court called for a briefing on PM-fine and vacated the standard for PM-coarse. The ozone standard was not vacated because the Court concluded the standard does not have any effect because it could not be implemented by EPA.

The Court called for responses to EPA's petition for a rehearing, and these responses have been filed. However, the Court did not call for responses to a petition filed by the Citizens for Balanced Transportation arguing that EPA should be required to make their standards more stringent. Several organizations (American Lung Association) and states (New Jersey and Massachusetts) supported EPA's petition for a rehearing while others (Ohio and Michigan) filed petitions against it.

On June 30th, EPA published a notice in the *Federal Register* detailing why the Tier 2 sulfur rule-making should go forward, even if it is based solely on the pre-existing 1-hour standard. EPA also explained why the air quality index rulemaking is justified regardless if the new standard is in place.

Richard Ossias, Deputy Associate General Council, briefly talked about the pending NO_X SIP call and Section 126 actions. In late May, Mr. Ossias stated that the Court issued a stay on the deadline for states to submit SIPs in response to the SIP call, however, the Court did not elaborate on why the deadline was extended. EPA submitted a briefing, explaining that the SIP call was based not only on the 8-hour standard, but also the 1-hour standard. The Court indicated there were uncertainties on what can and cannot be done to implement more stringent ozone standards.

The Agency decided it should stay Section 126 rule related to the 8-hour standard that was published in the *Federal Register* on April 30th and May 25th. The initial stay is only through November 30th, however, EPA issued a proposal that would call for an indefinite stay on the 8-hour aspects on the Section 126 petition and de-link the findings of the Section 126 petitions to the NO_X SIP call. EPA proposes to move forward with the Section 126 petitions under the 1-hour standard since the rulemaking has been issued.

Comments/Questions

Mr. Grumet asked about the status of reinstating the 1-hour standard. Although the Northeast states strongly support the 8-hour standard, they think the 1-hour standard should be restored. Without the reinstatement of the standard, there is no way for a state to enforce the standards. Bob Perciasepe responded that EPA has actively considered reinstating 1-hour standard in areas where it has been revoked. The 1-hour standard was revoked, knowing that there was a risk, but EPA reasoned that states were making a good faith effort to achieve the new 8-hour standard.

Bill Becker noted that there is a strong interest across the country, not just in the northeast, to reinstate the 1-hour standard. There is a strong consensus, although not unanimous, that states and local agencies cannot live without a standard, and the preference is for the 8-hour standard. Mr. Perciasepe noted that EPA has been conducting outreach across the country, including meetings with mayors and governors.

OPEN COMMITTEE DISCUSSION AND ADJOURNMENT

Mr. Brenner turned the discussion to the last agenda item. He requested ideas for the agenda for the next meeting which will include a discussion of the FY2000 budget. Mr. Rasmussen asked members to send him any ideas for the agenda, which will be distributed before the next meeting.

Bob Perciasepe adjourned the meeting.

CLEAN AIR ACT ADVISORY COMMITTEE MEETING

JULY 27, 1999
ATTENDEE LIST

NAME:	ORGANIZATION:
Ayres, Richard	Howrey and Simon, LLP
Becker, S. William	Association of Local Air Pollution Control Officials
Berens, Doug	Ford Motor Company
Blackwell, Charles	Native Affairs and Development Group
Bradley, Michael	M. J. Bradley Associates, Inc.
Brenner, Rob	EPA OAR
Clay, Don	Koch Industries, Inc.
Collett, Chuck	National Association of Home Builders
Cooper, Ben	Printing Industries of America
Cooper, Josephine	Alliance of Automobile Manufacturers
Craig, Bruce	E3 Ventures
Delgado, Jane	National Coalition of Hispanic Health & Human Services Organization
DeLucia, Anthony John	American Lung Association
Dimmick, Fred	EPA OAQPS
Doniger, David	EPA OAR
Earl, Tony	Center of Clean Air Policy
Eckert, Alan	EPA OGC
Feldcamp, Larry	Baker & Botts, L.L.P.
Frosh, Brian	Senate of Maryland
Gade, Mary	Consultant
Gerritson, Stephen	Washington Sierra Club
Goldsmith, William	Cornell University
Goodman, Charles	Southern Company Generation
Green, Gregory	Oregon Department of Environmental Quality
Greenbaum, Daniel	Health Effects Institute
Grumet, Jason	Northeast States for Coordinated Air Use Management
Harper, Steve	INTEL
Hawkins, David	Natural Resources Defense Council
Henneke, Ben	Clean Air Action Corporation
Hermanson, Robert	BPAmoco p.i.c.
Hogan, Kathleen	EPA OAQPS
Jonker, Peter	Sempra Energy

ATTENDEE LIST, Contd.

NAME:	ORGANIZATION:
Johnson, G. Alex	Delta Institute
Johnson, Timothy	Corning Incorporated
Kaufmann, Robert	American Forest and Paper Association
Kennedy, Anne Keys	US Department of Agriculture
Kenney, Mike	Air Resources Board
Keithley, Carter	Hearth Products Association
King, Bob	Sun Company
Lev-On, Miriam	ARCO
Lewis, William	Morgan, Lewis & Bockius, L.L.P.
Locke, Paul	The Pew Environmental Health Commission
MacGregor, Gay	EPA OMS
Martin, Dawn	EPA OAR
Muffat, Jeffry	3M Corporation
Munsell, Elsie	Department of Defense
Nishida, Jane	Maryland Department of Environment
Oge, Margo	EPA
O'Brian, Claudia	Latham and Watkins
O'Keefe, Robert	Health Effects Institute
Ossias, Richard	EPA OGC
Owens, Mark	Eli Lilly and Company
Owens, Steve	Muchmore & Wallwork
Paul, John	Dayton, Ohio Regional Air Pollution Control Agency
Perciasepe, Robert	EPA OAR
Quanstrom, Walter	BPAmoco p.i.c.
Raher, Patrick	Hogan & Hartson, L.L.P.
Rasmussen, Paul	EPA OAR
Seitz, John	EPA OAQPS
Shapiro, William	Volvo Cars of North America
Stram, Bruce	Enron Corporation
Svenson, Eric	PSE&G
Trueman, Ursula	Utah Department of Environmental Quality
Wegman, Lydia	EPA OAQPS
Wilson, Richard	National Environmental Strategies
Wolynk, Edward	Engelhard Corporation
Wright, Michael	United Steelworkers of America